

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HOT SPRINGS DIVISION

DANIEL RAY BROWN

PLAINTIFF

V.

CIVIL NO. 6:19-cv-06035

ARKANSAS COMMUNITY CORRECTION,
et. al.

DEFENDANTS

ORDER

The Court has received a Report and Recommendation (ECF No. 7) from United States Magistrate Judge Barry A. Bryant. Plaintiff, a prison litigant proceeding *pro se*, provisionally filed the instant civil rights action pursuant to 42 U.S.C. § 1983 alleging denial of medical care in violation of his constitutional rights. (ECF No. 2.) Judge Bryant recommends that the case be dismissed without prejudice for failure to comply with Local Rules and obey a Court order and failure to prosecute the case. (ECF No. 7 at 2.) Plaintiff has filed objections (ECF No. 8.) This matter is ripe for review.

Plaintiff filed his Complaint on April 1, 2019 in the Eastern District of Arkansas (ECF No. 2), and the case was transferred to this Court on April 2, 2019. Contemporaneous with his Complaint, Plaintiff filed a Motion for Leave to Proceed in forma pauperis (IFP Appl., April 1, 2019, ECF No. 1.) Plaintiff's IFP application failed to include a completed certification regarding inmate funds held in his name, and for this reason the application was found to be deficient. (Text-Only Order, April 4, 2019, ECF No. 6.) Plaintiff was mailed a blank Prisoner IFP Application and given twenty-one (21) days to "either have the certificate portion of the IFP application completed by the appropriate detention center official and return the application to the Court for review and filing or pay the 350.00 dollar filing fee and 50.00 administrative fee..." *Id.* Plaintiff was warned the "case shall be subject to dismissal for failure to obey an order of the Court if Plaintiff fails to return the completed IFP or pay the ...filing fee by the deadline." *Id.* The completed IFP application was due on or before April 25, 2019. *Id.* The Order was mailed to

Plaintiff and not returned as undeliverable. Plaintiff failed to file a completed IFP application, pay the filing fee or otherwise communicate with the Court, and on May 6, 2019, Judge Bryant issued the Report and Recommendation recommending dismissal (ECF No. 7).

Plaintiff timely filed written objections on May 13, 2019 stating that he submitted the certificate portion of the IFP application to Defendants for completion, but it was not processed or returned to him. (Pl.'s Obj., May 13, 2019, ECF No. 8.) Plaintiff alleges that Defendants' failure to process his IFP form was deliberate and constitutes "in-excusable neglect." *Id.* at ¶1. Plaintiff asks the Court to issue "an order directing Defendants to comply with processing said IFP application." *Id.* at ¶2.

The Court has conducted a *de novo* review of those portions of the report and recommendation to which Plaintiff has objected. 28 U.S.C. 636(b)(1). Plaintiff's objections offer neither law nor fact requiring departure from the Magistrate's findings. It was Plaintiff's duty to respond to the Order in a timely manner. Plaintiff failed to communicate with the Court in any fashion prior to the April 25, 2019 deadline. Accordingly, the Report and Recommendation is proper, contains no clear error, and is ADOPTED IN ITS ENTIRETY.

IT IS THEREFORE ORDERED that Plaintiff's Complaint should be and hereby is DISMISSED WITHOUT PREJUDICE.

IT IS SO ORDERED this 21st day of May 2019.

/s/Robert T. Dawson
ROBERT T. DAWSON
SENIOR U.S. DISTRICT JUDGE